

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF OPPOSITION TRANSMITTAL

*I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on January 21, 2003.*

  
Beth B. Lavalley

Box TTAB FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

January 21, 2003

Commissioner:

01-27-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #77

Enclosed for filing are the following:

1. Notice of Opposition (original and copy) filed by Retail Research & Development Limited relating to the following registration application:

**Mark** : INGEN  
**Serial No.** : 76/317,620  
**Filed** : September 26, 2001  
**Class(es)** : 041  
**Applicant** : Advanced Research and Technology Institute, Inc.

2. Our check for \$300.00 for the opposition filing fee.

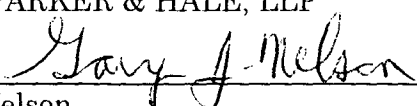
The Commissioner is authorized upon filing or during prosecution of this opposition to charge any additional fees which may be required or credit any overpayment of fees to Deposit Account No. 03-1728. Please show our docket number with any Deposit Account transaction. **A copy of this letter is enclosed.**

Please address all correspondence to **Gary J. Nelson at CHRISTIE, PARKER & HALE, LLP, P.O. Box 7068, Pasadena, California 91109-7068.**

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By

  
Gary J. Nelson  
626/795-9900

GJN/bbl

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TTA9

TRADEMARK  
Docket No. 110.2\*4/GJN/S307

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application **Serial No. 76/317,620** of Advanced Research and Technology Institute, Inc., filed September 26, 2001 for the mark **INGEN** in International Class 041, as published in the Trademark *Official Gazette* on September 24, 2002.

RETAIL RESEARCH &  
DEVELOPMENT LIMITED,

) Opposition No.  
)  
)  
) Opposer, )  
)

v. )  
)

ADVANCED RESEARCH AND  
TECHNOLOGY INSTITUTE, INC., )  
)

)  
) Applicant. )

**NOTICE OF OPPOSITION**



01-27-2003

U.S. Patent & TMO/TM Mail RcptDt. #77

Retail Research & Development Limited ("Opposer" or "RR&D"), a United Kingdom corporation having a place of business at 72 Kings Road, Windsor, Berkshire SL4 2AH, United Kingdom, believes that it will be damaged by registration of the mark shown in Application Serial No. 76/317,620 in International Class 041 and hereby opposes its registration.

As grounds for opposition, Opposer alleges:

1. Applicant Advanced Research and Technology Institute, Inc. ("Applicant" or "ARTI") seeks to register INGEN as a service mark for EDUCATIONAL RESEARCH SERVICES, NAMELY, CONDUCTING AND SPONSORING RESEARCH PROGRAMS IN THE FIELDS OF GENOMICS, NAMELY, INFORMATION TECHNOLOGY, PROTEOMICS, GENOTYPING, PHENOTYPING, BIOETHICS, BIOLOGY, CHEMISTRY, BIOINFORMATICS, MEDICAL INFORMATICS AND SUPERCOMPUTING in International Class 041, with an Intent-To-Use filing date of September 26, 2001, as evidenced by the publication of this mark in the *Official Gazette* on page TM 845 of the September 24, 2002 issue.

2. Opposer is the owner of United States Reg. No. 2,288,397 for INGEN as a trademark for COMPUTERSOFTWARE WHICH TRACKS, SUPERVISES AND MAINTAINS

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**Opposition to Serial No. 76/317,620**

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IN-STORE PLANNING, INVENTORY MANAGEMENT AND RELATED OPERATIONAL TASKS FOR RETAIL OUTLETS AND RETAIL OPERATIONS, in International Class 009, issued on October 26, 1999 (Exhibit A).

3. Opposer is in the business of manufacturing and distributing products and offering services, including but not limited to the goods listed in its trademark registration described in paragraph 2 above. In regards to the identified goods, Opposer has invested a great deal of time, money and effort in promoting these goods under its INGEN trademark and is continuing to extensively promote these goods in association with the INGEN trademark.

4. As a result of the high quality of Opposer's goods and the extensive promotion, sales, and public acceptance thereof, Opposer's goods have acquired an outstanding reputation and the public now associates these goods with Opposer and the INGEN trademark.

5. Applicant's designation INGEN is identical to Opposer's INGEN trademark, at least as to visual appearance, sound, commercial impression and connotation.

6. The goods/services used in association with Opposer's INGEN trademark, and the goods identified in Opposer's Reg. No. 2,288,397, are related to at least some of the services listed in Applicant's INGEN App. Ser. No. 76/317,620. The simultaneous use of each parties' mark in association with their respective goods/services will result in a likelihood of confusion as to the source or sponsorship of such goods/services.

7. The marketing and channels of trade for Opposer's goods used in association with Opposer's INGEN trademark, and the marketing and channels of trade for at least some of Applicant's services listed in Applicant's INGEN App. Ser. No. 76/317,620 are related.

8. Opposer's rights in its INGEN trademark precede any rights Applicant may have in the designation INGEN. Opposer's registration for its INGEN trademark issued on October 26, 1999, a date prior to the when Applicant filed its Intent-To-Use INGEN application (i.e., September 26, 2001).

9. Registration and use of Applicant's designation INGEN is likely to cause injury to Opposer's business reputation and to injure and impair Opposer's rights in its own INGEN trademark by causing confusion, mistake, and/or deception as to the respective rights of the parties, and as to the source or sponsorship of goods associated with these trademarks.

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**Opposition to Serial No. 76/317,620**

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10. Opposer's INGEN trademark is distinctive and famous. Opposer's INGEN trademark became famous before Applicant filed its Intent-To-Use INGEN trademark application (i.e., before June 13, 2001). The registration or use of the INGEN designation by Applicant will cause dilution of the distinctive quality of Opposer's famous INGEN trademark.

WHEREFORE, Opposer requests that this Opposition be sustained, Application Serial No. 76/317,620 be rejected, and that Applicant's designation INGEN be refused registration.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date January 21, 2003

By Gary J. Nelson  
Gary J. Nelson  
Attorneys for Opposer  
P.O. Box 7068  
Pasadena, California 91109-7068  
626/795-9900

GJN/bbl

Enclosures: Copy of Notice of Opposition  
Exhibit A

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## UNITED STATES PATENT AND TRADEMARK OFFICE

## Trademark Electronic Search System (TESS)

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## Record 1 out of 1

**Check Status**

(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

### Typed Drawing

<b>Word Mark</b>	INGEN
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Computer software which tracks, supervises and maintains in-store planning, inventory management and related operational tasks for retail outlets and retail operations
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75266862
<b>Filing Date</b>	March 31, 1997
<b>Filed ITU</b>	FILED AS ITU
<b>Published for Opposition</b>	June 8, 1999
<b>Registration Number</b>	2288397
<b>Registration Date</b>	October 26, 1999
<b>Owner</b>	(REGISTRANT) Retail Research & Development Limited COMPANY UNITED KINGDOM 72 Kings Road Windsor, Berkshire SL4 2AH UNITED KINGDOM
<b>Attorney of Record</b>	ELLIOT A SALTER
<b>Section 44 Indicator</b>	SECT44
<b>Priority Date</b>	October 16, 1987
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead</b>	

Indicator LIVE

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**Opposition to Serial No. 76/317,620**

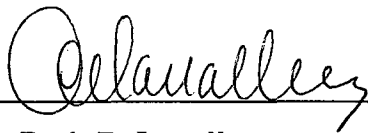
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**CERTIFICATE OF MAILING**

I certify that on January 21, 2003, the foregoing **NOTICE OF OPPOSITION** is  
being deposited with the United States Postal Service by first-class mail addressed to:

Box Trademark Trial and Appeal Board - FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

By:   
Beth B. Lavalley  
Christie, Parker & Hale, LLP  
(626) 795-9900